

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL MARCAVAGE and STEVEN LEFEMINE,

Plaintiffs,

05 Civ 4949 (KMK)(JCF)

-against-

THE CITY OF NEW YORK, RAYMOND W. KELLY, in
his individual and official capacity as the Commissioner of
The New York City Police Department; SERGEANT
EBANKS, CAPTAIN STAPLES, OFFICER DONNELLY
and AS YET UNKNOWN OFFICERS, in their individual
capacities and official capacities as Police Officers for The
Police Department,

Defendants

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DECLARATION OF ALEXIS LEIST

Alexis Leist, an attorney duly admitted to practice in the United States District Court for the Southern District of New York, declares under penalty of perjury and pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of MICHAEL A. CARDOZO, Corporation Counsel of the City of New York, attorney for defendants.
2. I am familiar with the facts and circumstances stated herein based upon personal knowledge, the books and records of the City of New York, and conversations with its agents and employees.
3. I submit this declaration in support of defendants' motion for summary judgment in the above-captioned case.
4. Annexed hereto as **Exhibit A** is a true and correct copy of plaintiffs' Complaint filed in Marcavage.

5. Annexed hereto as **Exhibit B** is the court conference transcript of October 17, 2008.

6. Annexed hereto as **Exhibit C** is a true and correct copy of plaintiffs' correspondence to defendants dated October 14, 2008.

7. Annexed hereto as **Exhibit D** is a true and correct copy of defendants' correspondence to the court dated September 18, 2008 and October 10, 2008.

8. Annexed hereto as **Exhibit E** is a true and correct copy of the declaration of Bruce Smolka dated December 1, 2008.

9. Annexed hereto as **Exhibit F** is the deposition of Michael Marcavage dated September 26, 2006.

10. Annexed hereto as **Exhibit G** is the deposition of Steven C. Lefemine dated September 27, 2006.

11. Annexed hereto as **Exhibit H** is a true and correct copy of the declaration of Gerard Staples dated December 1, 2008.

12. Annexed hereto as **Exhibit I** is the deposition of Gerard Staples dated September 28, 2006.

13. Annexed hereto as **Exhibit J** is the deposition of Richard Crespo dated November 14, 2006.

14. Annexed hereto as **Exhibit K** is the deposition of Chris Serrao dated November 15, 2006.

15. Annexed hereto as **Exhibit L** is the deposition of Dawn Gavin dated March 22, 2007.

16. Annexed hereto as **Exhibit M** is the deposition of Kenji Ebanks dated February 20, 2007.

17. Annexed hereto as **Exhibit N** is the deposition of Brian Donnelly dated November 14, 2006.

18. Annexed hereto as **Exhibit O** is the deposition of Michelle Burke dated March 22, 2007.

19. Annexed hereto as **Exhibit P** is a copy of the front of the audio recording produced by Alliance Defense Fund dated September 15, 2006. A hard copy of the audio recording has also been provided to the court.

20. Annexed hereto as **Exhibit Q** is the transcript of the audio recording prepared by the defendants.

21. Annexed hereto as **Exhibit R** is a map of Madison Square Garden.

22. Annexed hereto as **Exhibit S** is a true and correct copy of Michael Marcavage's Criminal Court Complaint.

23. Annexed hereto as **Exhibit T** is a true and correct copy of Michael Marcavage's certificate of disposition.

24. Annexed hereto as **Exhibit U** is a true and correct copy of Steven C. Lefemine's Criminal Court Complaint.

25. Annexed hereto as **Exhibit V** is a true and correct copy of Steven C. Lefemine's certificate of disposition.

Dated: New York, New York
December 1, 2008


ALEXIS LEIST